

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
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- v. -	:	16 Cr. 483 (JSR)
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STEFAN LUMIERE,	:	
	:	
Defendant.	:	
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GOVERNMENT’S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors.

The Court is requested to pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant, or otherwise affect the juror’s ability to serve as a fair and impartial juror in this case.

Introduction

1. This is a criminal case. The defendant on trial, STEFAN LUMIERE, has been charged with the commission of federal crimes in an Indictment filed by a grand jury sitting in this District. The Indictment in this case charges separate crimes, commonly referred to as

counts. The Indictment is simply a charge or accusation; it is not evidence or proof of guilt. The defendant is presumed innocent up to and until he is found guilty beyond a reasonable doubt.

2. In summary, the Indictment alleges that from in or about June 2011 through in or about September 2013, STEFAN LUMIERE, the defendant, engaged in a scheme to mislead investors and potential investors in a particular hedge fund about the process used to value certain assets in the defendant's investment portfolio and/or the true value of these assets. As a result, LUMIERE is charged with conspiring to commit securities fraud and wire fraud, and substantive counts of securities fraud and wire fraud.

3. Does any juror have personal knowledge of the charges in the Indictment in this case? Has any juror read or heard anything about this case? If so, is there anything such a juror has read or heard that would cause him or her to feel that he or she cannot consider this case fairly and impartially?

Nature of the Charges

4. During the trial, you will hear evidence regarding the defendant's work at a hedge fund that invested in debt instruments – things like bonds and loans. Does the fact that the charges stem from the defendant's alleged conduct in connection with his management of a hedge fund that invested in, among other things, bonds and loans, make it difficult for any one of you to render a fair verdict?

5. Have any of you worked for or invested in a hedge fund? Will your experience as an investor in or employee at a hedge fund affect your ability to be fair and impartial in this case?

6. Have any of you worked in the securities industry? Will your experience affect your ability to be fair and impartial in this case?

7. Have any of you lost money from your investments due, not to market forces or other innocuous reasons, but to alleged mismanagement by the fund manager? Will your past investment experience affect your ability to be fair and impartial in this case?

Knowledge of the Trial Participants

8. The defendant in this case is STEFAN LUMIERE [Please ask the defendant to rise.] Does any juror know, or has any juror had, any dealings, directly or indirectly, with the defendant STEFAN LUMIERE, or with any relative, friend, or associate of the defendant?

9. To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

10. The defendant, STEFAN LUMIERE, is represented by Eric Creizman, Esq., Melissa Madrigal, Esq., and Amanda Shoffel, Esq. [Please ask Mr. Creizman, Ms. Madrigal, and Ms. Shoffel, to rise.] Do any of you know Mr. Creizman or Ms. Madrigal or Ms. Shoffel? Has any juror had any dealings with their attorneys, or their law firm Creizman LLC?

11. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Ian McGinley, Damian Williams, and Joshua A. Naftalis. They will be assisted by Special Agent Matthew Callahan of the Federal Bureau of Investigation, and Holly Meister and Sarah Pyun, paralegal specialists in the U.S. Attorney's Office. [Please ask them to stand.] Do any of you know Mr. Bharara, Mr. McGinley, Mr. Williams, Mr. Naftalis, Mr. Callahan, Ms. Meister, or

Ms. Pyun? To your knowledge, have you, your family members, or your close friends had any dealings with them?

12. I will now read a list of names of individuals and companies who may be mentioned during the trial, or who may be witnesses in this case:

[NAMES TO BE SUPPLIED PRIOR TO JURY SELECTION]

Do you know any of those people? Are you familiar with any of these companies? Have you had any dealings, directly or indirectly, with any of them? To your knowledge, have any of your relatives, friends, or associates had any dealings with them?

13. I will now read a list of locations that may be mentioned or shown during the trial:

[LOCATIONS TO BE SUPPLIED PRIOR TO JURY SELECTION]

Are any of you familiar with these specific locations?

Relationship with the Government

14. Do you or your relatives or close friends, work in law, law enforcement, the justice system, or the courts? In what capacity? Have you had any contact with anyone in law, law enforcement, the justice system or the courts that might influence your ability to evaluate this case?

15. Do you have any bias or prejudice for or against the United States Attorney's Office, the Federal Bureau of Investigation, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or any other law enforcement or regulatory agency?

16. Has any juror, or has any member of any juror's family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the

United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute or its outcome?

Ability to Sit as Jurors

17. Does any juror have a problem with his or her hearing or vision, or any other medical problem, which would prevent him or her from giving full attention to all of the evidence at this trial? Is any juror taking any medication which would prevent him or her from giving full attention to all the evidence at this trial?

18. Does any juror have any difficulty in reading or understanding English in any degree?

Prior Jury Service

19. Have you ever served as a juror in a trial in any court? If so, in what court did you serve and was it a civil or a criminal case? What type of case was it? Without telling us what the verdict was, did the jury reach a verdict?

20. Have you ever served as a member of a grand jury, whether in federal, state, county or city court? If so, when and where?

Experience as a Witness, Defendant, or Crime Victim

21. Have any of you, or your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, by a Congressional or state legislative committee, licensing authority, or governmental agency, at a hearing, or at a trial? Have you or anyone close to you been questioned in any matter by a law enforcement agency?

22. Have you ever been a witness or complainant in any prosecution, state or federal?

23. Are you or any of your relatives or close friends, now under subpoena, or to your knowledge, about to be subpoenaed in any case?

24. Have you, or any of your relatives or close friends, ever been charged with a crime? [As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each crime.]

25. Have you, or any of your relatives or close friends, ever been the subject of any investigation or accusation by any grand jury, federal or state, or by any Congressional committee? [As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each investigation or accusation.]

26. Have you or any of your relatives or close friends, ever been a victim of a crime? [As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each crime.]

27. Have you, or any of your relatives or close friends ever been the victim of a fraudulent investment scheme, or an investment scheme that was later discovered to have induced investors to invest or stay invested through false and materially misleading representations? [As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each scheme.]

Views on Witnesses and Evidence

28. Law Enforcement/Regulatory Personnel: The witnesses in this case may include, among others, agents of the Federal Bureau of Investigation, and a witness who works at the Financial Industry Regulatory Authority (“FINRA”), a non-government, independent regulator for securities firms doing business in the United States. Would you be more likely to believe or

disbelieve a witness merely because he or she is a law enforcement officer or works for an independent regulator?

29. Accomplice Witnesses: You may hear testimony in this case from accomplice witnesses, that is, witnesses who were previously involved in illegal activity, but who have been granted immunity or entered into agreements with the Government whereby they agreed to cooperate with the Government in hopes of receiving a lesser sentence if they tell the truth about their own involvement in crimes and the involvement of others and live up to other obligations in their agreements - in what is known as a cooperation agreement, or whereby the Government agrees not to prosecute them if they tell the truth about their own involvement in crimes and the involvement of others and live up to other obligations in their agreements - in what is known as a non-prosecution agreement. I instruct you that the use of such witnesses is perfectly legal and is often a necessary law enforcement tool. Do any of you have any experience with or feelings about the use of accomplice witnesses, the granting of immunity or the use of cooperation or non-prosecution agreements by the Government, or the use of evidence or information obtained from accomplice witnesses or individuals who have received immunity or entered into cooperation or non-prosecution agreements with the Government, which would make it difficult for you to render a fair and impartial verdict? One of the witnesses in this case is a whistleblower, who informed the SEC about conduct that he believed was illegal. This witness may eventually receive compensation from the SEC for the information he provided. Do any of you believe that it is improper for a whistleblower to report conduct that he believes is illegal to the SEC? Do any of you believe that is improper for a whistleblower financially benefit from providing information to the SEC?

30. Investigative Techniques: Does anyone have any expectations about the types of evidence that the Government should or will present in this criminal trial, or in a criminal trial more generally? Would any of you be unable to follow my instructions that the Government is not required to use any particular investigating technique in presenting evidence of a crime?

31. Recorded Phone Calls and Archived Emails: You may hear recordings in this case involving the defendant and others that were recorded without the knowledge of all the participants, or read e-mail communications that were retrieved from companies' email archive systems. I instruct you that such evidence was properly obtained and that it is proper for this evidence to be introduced at trial for your consideration. Furthermore, you are to consider such evidence without regard to your personal views as to propriety of recording conversations without the knowledge of all the participants or the propriety of a company having access to its employees' email communications with others. Does anyone believe that he or she will be unable to follow these instructions?

Function of the Court and Jury

32. The function of the jury is to decide questions of fact. You are the sole judges of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact finders. However, when it comes to the law, you must take your instructions from the Court and you are bound by those instructions. You may not substitute your notions of what the law is or what you think it should be. At the conclusion of the case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment. Does

any juror have any difficulty with that principle, or any problem in accepting and following the instructions of the law that I will give you in this case?

33. Will each juror accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into the deliberation of the jurors as to whether the defendant on trial here is guilty?

34. Will each of you accept the proposition that sympathy or empathy must not enter into the deliberations of the jurors as to whether the defendant is guilty or not guilty, and that only the evidence presented here in Court may be used by you to determine whether the defendant is guilty or not guilty of the crime charged?

35. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

36. Does any juror have any religious, philosophical or other belief which would make him or her unable to sit in judgment of another or unable to render a guilty verdict for reasons unrelated to the law and the evidence?

Other Biases

37. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained?

38. After the jury is selected, we will begin opening statements and then the presentation of evidence. The trial in this case should last approximately 2 weeks. The Court expects that the court day will last from about 9:00 to 5:00. Is there any juror for whom the proposed trial schedule presents an insurmountable problem, one that would make it truly impossible for the juror to serve?

Jurors' Background

39. The Government respectfully requests that the Court ask each juror to state the following information:

- (a) the juror's age;
- (b) where the juror was born;
- (c) the educational background of the juror, including the highest degree obtained;
- (d) whether the juror has served in the military;
- (e) the juror's occupation;
- (f) the nature of the juror's work;

(g) the juror's current employer and the length of employment with that employer;

(h) the same information concerning other employment within the last five years;

(i) the same employment information with respect to members of the jurors' household, including the juror's significant other and any working children;

(j) the juror's current town of residence;

(k) the newspapers or magazines that the juror typically reads and how often;

(l) the television shows that the juror typically watches;

(m) the websites that the juror reads regularly and/or posts comments or information on; and

(n) the juror's hobbies or leisure-time activities and organizations;

Requested Instruction Following Impaneling of the Jury

40. From this point on until you retire to deliberate on your verdict, it is your duty not to discuss this case and not to remain in the presence of other persons who may be discussing this case. This rule about not discussing the case with others includes discussions even with members of your own family and your friends.

41. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, even to offer a friendly greeting. So if you happen to see any of them outside this courtroom they will,

By: /s/
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